THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.27272 of 2005

Dated 22nd December 2005

Between:

Redlam Yesubhushana Rao

…Petitioner

and

The Government of A.P.,

Rep. by its Secretary, Social Welfare (CV.2) Dept.,

Hyderabad & another.

…Respondents

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O R D E R:

The petitioner got employed as Luscar in Kakinada Port, against a vacancy reserved in favour of Scheduled Tribe. Proceedings were initiated against him under Section 5 of The Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993, for short "the Act", alleging that the caste certificate issued to him is not genuine. Ultimately, through orders dated 13.9.2005, the second respondent cancelled the caste certificate issued to the petitioner. A finding was recorded to the effect that the petitioner belongs to Kaapu community and that he is not a Scheduled Tribe. Aggrieved thereby, the petitioner preferred an appeal before the first respondent, and filed an application for stay. Through Memo dated 19.12.2005, the first respondent rejected the application for stay. Hence, this writ petition.

Heard the learned counsel for the petitioner and learned Government Pleader for Social Welfare.

The petitioner had availed the remedy of appeal under the Act, and filed an application for stay. The first respondent rejected the application, by observing that the petitioner has not filed any valuable documentary evidence. In this regard, it needs to be observed that the examination of documentary evidence or other material is a matter, which needs to be undertaken, at the stage of hearing of the appeal. While examining an application for stay, the balance of convenience and *prima facie* case are to be taken into account. The petitioner is employed against a reserved vacancy and his caste certificate is cancelled. If he is removed from service, even while the appeal preferred by him is pending, virtually nothing remains to be decided. For all practical purposes, appeals are treated as continuation of the original proceedings, and the state of affairs that prevailed during the pendency of the original proceedings are to be continued, during the pendency of the appeal, unless extraordinary circumstances exist.

For the foregoing reasons, the writ petition is disposed of, directing that the order dated 13.9.2005, passed by the second respondent, shall remain suspended till, the disposal of the appeal by the first respondent, and the appeal shall be disposed of finally, within six weeks from the date of receipt of a copy of this order. The petitioner shall not be entitled to seek any adjournment at the hearings before the first respondent. There shall be no order as to costs.

22nd December 2005

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